



COUNTY OF KAUAI

News Release

October 7, 2016

Explanation for proposed charter amendments available online, in print

LĪHU'E – Kaua'i voters will have the opportunity to decide on seven proposed charter amendments in the coming general election.

To assist voters with making informed decisions, the Charter Review Commission has provided background information and the purpose of each proposal.

In addition to the proposed charter amendments, two proposed amendments to the Hawai'i State Constitution will appear on the ballot.

For more information about the constitutional proposals, please click on

<http://hawaii.gov/elections/factsheets/fsbo134.pdf>.

ARTICLE I TO XXXII – CORRECTING GENDER NEUTRALITY AND GRAMMATICAL, FORMATTING AND SPELLING ERRORS

Ballot Question: Shall the charter be amended throughout to ensure that its language is to the greatest extent possible gender neutral and to make changes to spelling, capitalization, punctuation, formatting and grammar?

Background: Since its adoption in 1968, the County Charter has been amended several times, resulting in inconsistencies in word usage and formatting, as well as grammatical errors. Further, the charter refers to gender-specific positions, such as "councilman" and "chairman".

Purpose: The purpose of this amendment is to correct grammatical and formatting errors in the document, without altering the meaning or intent of its content. The amendment also seeks gender neutrality by changing terms such as "councilman" to "councilperson" and "chairman" to "chair".

ARTICLE XII – EXPANDING THE DUTIES OF THE FIRE CHIEF AND DEFINING AUTHORITY TO EXECUTIVE POWERS AND DUTIES

Ballot Question: Shall the duties of the fire chief be clarified to include duties currently performed such as addressing hazardous materials, emergency medical services, and ocean safety, and shall the reference to the mayor's authority to assign duties be removed?

Background: The section of the County Charter relating to the Fire Department was created before the Fire Commission was formed. Therefore, the current language of the Charter does not specifically identify lines of authority in assigning duties. Additionally, the Department has broadened its scope beyond fire control, to include such functions as ocean safety, hazardous materials, and emergency services, which are currently not reflected in the charter.

Purpose: This amendment would appropriately describe the current functions of the fire chief and the Fire Department, as they relate to duties and authority

ARTICLE XIV – ESTABLISHING A ZONING BOARD OF APPEALS TO ASSIST THE PLANNING COMMISSION IN PROVIDING DUE PROCESS FOR APPELLANTS

Ballot Question: Shall a Zoning Board of Appeals be established to hear appeals from decisions of the planning director and to conduct evidentiary hearings at the request of the planning commission?

Background: The rising number of contested case hearings has increased the need for the Planning Commission to hire hearings officers. The proposed Zoning Board of Appeals would be a seven-member board that would hear appeals regarding zoning and subdivision ordinances and would conduct evidentiary hearings. The creation of a Zoning Board of Appeals would eliminate the need to continuously hire hearings officers. The members of the proposed board would not be compensated and would be appointed by the mayor with the approval of the council.

Purpose: This amendment establishes a Zoning Board of Appeals that would hear appeals of the planning director's decisions regarding violations of the zoning and subdivision ordinance, thereby eliminating the need to hire hearings officers to perform this duty.

ARTICLE XVIII – RELATING TO THE CIVIL DEFENSE AGENCY

Ballot Question: Shall the county Civil Defense Agency be renamed the Emergency Management Agency and its organization clarified consistent with state law?

Background: Hawaii State law recently renamed the "Civil Defense Agency" to the "Emergency Management Agency." Therefore, the current language of the Charter referring to the Civil Defense Agency is inconsistent with state law. Additionally, the Charter does not currently assign a department administrator or director.

Purpose: This amendment seeks to establish an administrator of the County Emergency Management Agency, and ensures that the Charter language is consistent with State law by renaming the Civil Defense Agency as the Emergency Management Agency.

ARTICLES XXII AND XXIV – RELATING TO THE PERCENTAGE OF REQUIRED VOTERS FOR AN INITIATIVE PETITION, A REFERENDUM PETITION, OR A CHARTER

AMENDMENT PETITION AND TO SPECIFY WHAT IS A CHARTER AMENDMENT AS WELL AS TO ENABLE THE COUNTY CLERK TO DETERMINE WHETHER THE PROPOSAL IS A VALID CHARTER AMENDMENT

Ballot Question: Shall the percentage of registered voter signatures required to start the initiative or referendum process be reduced to 10 percent from 20 percent, and shall the percentage of registered voter signatures required to start the charter amendment process via voter petition be increased to 10 percent from 5 percent?

Background: Currently, the Charter requires that voters seeking to propose an ordinance or referendum by petition be signed by no less than 20 percent of registered voters in the previous general election. A charter amendment by petition must be signed by no less than five percent of the number of registered voters in the prior general election. This creates an inconsistency in the percentage of voters required to change, enact or reject county laws, and to amend the County Charter.

Purpose: This amendment seeks to decrease the number of registered voters required to propose an initiative or referendum, from 20 percent to 10 percent of registered voters in the prior election. It also seeks to increase the percentage of voters required to propose a charter amendment by petition from 5 percent to 10 percent. This makes the required percentage consistent at 10 percent for those wishing to propose an ordinance, referendum or charter amendment.

Ballot Question: Shall it be specified what constitutes a charter amendment, and shall the processing of a proposed charter amendment via voter petition be revised to enable the county clerk to determine whether the proposal is a valid charter amendment?

Background: The Charter currently requires that a charter amendment petition be presented to the County Council. It does not define a charter amendment or its limitations, nor does it specifically authorize a party to determine whether the proposal would be a valid charter amendment.

Purpose: The purpose of this amendment is to authorize the County Clerk, subject to court approval, to determine whether a proposed charter amendment is valid. It also seeks to limit a charter amendment to addressing the form or structure of county government, and not as a vehicle to adopt local legislation.

ARTICLE XXIV – ESTABLISHING A PERMANENT CHARTER REVIEW COMMISSION

Ballot Question: Shall the Charter Review Commission be an ongoing commission?

Background: The Charter establishes a seven-member commission, called the Charter Review Commission, to study and review the operation of the county government. The current language of the charter states that the Commission will expire on December 31, 2016. A new commission can reconvene in 10 years, with members to be appointed by the mayor and approved by the council.

Purpose: This amendment seeks to remove the expiration date of the Charter Review Commission and eliminates the 10-year intervals between the creation of the commissions, thereby establishing a permanent Charter Review Commission.

To download the proposed charter amendments in their entirety, please go to the county website, www.kauai.gov/charter.

Printed copies of the amendments can be found in the Oct. 5 edition of The Garden Island newspaper, the October 2016 edition of the For Kaua'i newspaper, public libraries and all of the neighborhood centers on the island.

For more information, please call the Office of Boards and Commissions at 241-4919, the Elections Division at 241-4800 or TTY at 241-5116.

If you need an ASL interpreter, materials in an alternate format, or other auxiliary aid support, please contact any of the offices listed above.